

E-Filed on 9/18/09

1 3993 Howard Hughes Parkway, Suite 600
2 Las Vegas, NV 89169-5996
3 Facsimile (702) 949-8321
4 Telephone (702) 949-8320

5 Rob Charles NV State Bar No. 006593
6 Email: rcharles@lrlaw.com
7 John Hinderaker AZ State Bar No. 018024
8 Email: jhinderaker@lrlaw.com
9 Marvin Ruth NV State Bar No. 10979
10 Email: mruth@lrlaw.com

11 Attorneys for USACM Liquidating Trust

12 **UNITED STATES BANKRUPTCY COURT**
13 **DISTRICT OF NEVADA**

14 In re:

15 USA COMMERCIAL MORTGAGE
16 COMPANY,

17 USA CAPITAL REALTY ADVISORS,
18 LLC,¹

19 USA CAPITAL DIVERSIFIED TRUST
20 DEED FUND, LLC,

21 USA CAPITAL FIRST TRUST DEED
22 FUND, LLC,²

23 USA SECURITIES, LLC,³ Debtors.

24 **Affects:**

- All Debtors
- USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

25 Case No. BK-S-06-10725-LBR¹
26 Case No. BK-S-06-10726-LBR¹
1 Case No. BK-S-06-10727-LBR²
2 Case No. BK-S-06-10728-LBR²
3 Case No. BK-S-06-10729-LBR³

27 **CHAPTER 11**

28 Jointly Administered Under Case No.
29 BK-S-06-10725 LBR

30 **NOTICE OF HEARING REGARDING
31 NINTH OMNIBUS OBJECTION OF
32 USACM LIQUIDATING TRUST TO
33 DOUBLE COUNTED CLAIMS**

34 Date of Hearing: October 19, 2009

35 Time of Hearing: 3:00 p.m.

36 The USACM Liquidating Trust believes that your claim is currently listed
37 incorrectly in the Claims Registry. The amount listed is double the amount you included
38 in your proof of claim as your actual intended total claim. **THUS, THE USACM**

39 ¹ This bankruptcy case was closed on September 23, 2008.

40 ² This bankruptcy case was closed on October 12, 2007.

41 ³ This bankruptcy case was closed on December 21, 2007.

1 **LIQUIDATING TRUST IS PRESENTLY OBJECTING ONLY TO THAT**
2 **PORTION OF YOUR CLAIM, AS LISTED IN THE ATTACHED EXHIBIT A,**
3 **THAT WAS DOUBLE COUNTED OR THAT OTHERWISE EXCEEDS THE**
4 **AMOUNT OF THE CLAIM YOU FILED.**

5 **PLEASE DO NOT CONTACT THE CLERK OF THE BANKRUPTCY**
6 **COURT TO DISCUSS THE MERITS OF YOUR CLAIM.** QUESTIONS
7 **REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A CLAIM**
8 **SHOULD BE DIRECTED TO BRANT FYLLING OF SIERRA CONSULTING**
9 **GROUP, LLC (602) 424-7009) OR THE UNDERSIGNED COUNSEL.**

10 **NOTICE IS HEREBY GIVEN** that the USACM Liquidating Trust has filed its
11 Ninth Omnibus Objection of the USACM Liquidating Trust to Double Counted Claims
12 (the “Objection”). Your Proof of Claim number and other information regarding your
13 claim, including the double counted amount that is subject to the objection, is provided in
14 **Exhibit A**, attached. The USACM Liquidating Trust has requested that this Court enter an
15 order, pursuant to Bankruptcy Code § 502 and Bankruptcy Rule 3007, disallowing the
16 portion of your Proof of Claim to the extent it is double counted.

17 **NOTICE IS FURTHER GIVEN** that the hearing on the Objection will be held
18 before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley
19 Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on
20 **October 19, 2009, at the hour of 3:00 p.m.**

21 **NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON OCTOBER**
22 **19, 2009, WILL BE HELD FOR THE PURPOSE OF STATUS CHECKS AND**
23 **SCHEDULING EVIDENTIARY HEARINGS ONLY. NO ARGUMENTS WILL BE**
24 **HEARD ON THAT DATE.**

25 **NOTICE IS FURTHER GIVEN** that any response to the Objection must be filed
26 by **October 9, 2009**, pursuant to Local Rule 3007(b), which states:

If an objection to a claim is opposed, a written response must be filed and served on the objecting party at least 5 business days before the scheduled hearing. A response is deemed sufficient if it states that written documentation in support of the proof of claim has already been provided to the objecting party and that the documentation will be provided at any evidentiary hearing or trial on the matter.

If you object to the relief requested, you *must* file a **WRITTEN** response to this pleading with the Court. You *must* also serve your written response on the person who sent you this notice.

If you do not file a written response with the Court, or if you do not serve your written response on the person who sent you this notice, then:

- The Court may *refuse to allow you to speak* at the scheduled hearing; and
- The Court may *rule against you* and sustain the objection without formally calling the matter at the hearing.

Dated: September 18, 2009.

LEWIS AND ROCA LLP

By /s/ Marvin Ruth (#10979)
Rob Charles, NV 6593
John C. Hinderaker, AZ 18024 (*pro hac vice*)
Marvin Ruth, NV 10979
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
Telephone: (702) 949-8320
Facsimile: (702) 949-8398
E-mail: mruth@lrlaw.com
Attorneys for the USACM Liquidating Trust

Copy of the foregoing and pertinent portion of Exhibit A mailed by first class postage prepaid U.S. Mail on September 18, 2009 to:

Parties listed on Exhibit A attached.

LEWIS AND ROCA LLP

/s/ Leilani Lista
Leilani Lista